

HOUSE BILL No. 1859

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.3-11-4; IC 6-1.1-18.5-10.6;
IC 6-1.1-21-2.

Synopsis: Property tax levy limits. Provides that the legislative body of a city or town may adopt an ordinance providing that the property tax levy limits do not apply to property taxes imposed by the city or town to raise revenue for pension payments and contributions that the city or town is required to make for police officers and firefighters. Makes conforming changes to the formula providing the "m portion" of the pension relief fund distributions to a city or town that adopts the ordinance. Provides that state property tax replacement credits are not available for the increased property tax levy imposed outside the levy limits to pay for the pension payments and contributions.

Effective: July 1, 1999.

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January 26, 1999, read first time and referred to Committee on Ways and Means.



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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1859

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10.3-11-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) ~~Monies~~ **Money**
3 from the pension relief fund shall be paid annually by the state board
4 under the procedures specified in this section.

5 (b) Before April 1 of each year, each unit of local government must
6 certify to the state board:

7 (1) the amount of payments made during the preceding year for
8 benefits under its pension funds covered by this chapter, referred
9 to in this section as "pension payments";

10 (2) the data determined necessary by the state board to perform an
11 actuarial valuation of the unit's pension funds covered by this
12 chapter; and

13 (3) the names required to prepare the list specified in subsection
14 (c).

15 A unit is ineligible to receive a distribution under this section if it does
16 not supply before April 1 of each year (i) the complete information
17 required by this subsection; or (ii) a substantial amount of the

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information required if it is accompanied by an affidavit of the chief executive officer of the unit detailing the steps which have been taken to obtain the information and the reasons the complete information has not been obtained. This subsection supersedes the reporting requirement of IC 5-10-1.5 as it applies to pension funds covered by this chapter.

(c) Before July 1 of each year, the state board shall prepare a list of all police officers and firefighters, active, retired, and deceased if their beneficiaries are eligible for benefits, who are members of a police or fire pension fund that was established before May 1, 1977. The list may not include police officers, firefighters, or their beneficiaries for whom no future benefits will be paid. The state board shall then compute the present value of the accrued liability to provide the pension and other benefits to each person on the list.

(d) Before July 1 of each year, the state board shall determine the total pension payments made by all units of local government for the preceding year and shall estimate the total pension payments to be made to all units in the calendar year in which the July 1 occurs.

(e) Each calendar year the state board shall distribute to each unit of local government, in two (2) equal installments on or before June 30 and on or before October 1, an amount (D_y) determined by the following STEPS:

STEP ONE. Subtract the total distribution made to units (D_{y-1}) in the preceding calendar year from the total pension payments made by units (P_{y-1}) in the preceding calendar year.

STEP TWO. Multiply the STEP ONE difference by $(1+k)$ as (k) is determined in STEP THREE.

STEP THREE. Determine the annual percentage increase (k) in the STEP ONE difference which will allow the present value of all future estimated distributions, as computed under STEP FOUR, from the pension relief fund to equal the "k portion" of the pension relief fund balance plus the present value of all future receipts to the "k portion" of the fund, but which will not allow the "k portion" of the pension relief fund balance to be negative. These present values shall be determined based on the current long term actuarial assumptions. The "k portion" of the pension relief fund balance is the total pension relief fund balance less the "m portion" of the fund. The percentage increase (k) shall be computed to the nearest one thousandth of one percent (.001%). All years, after the year 2000, in which the receipts to the fund plus the net pension payments by all the units equal or exceed the total pension payments shall be ignored for the purposes of these



calculations.

STEP FOUR. Subtract the STEP TWO product from the estimated total pension payments to be made by all units (P_y) in the calendar year in which the distribution is to be made.

STEP FIVE. Multiply the STEP FOUR difference by one-half ($1/2$) of the sum of two quotients, (1) the quotient of the unit's number of police officers and firefighters on December 31 of the year before the year of the distribution who are members of a pension fund established before May 1, 1977, who are retired, and who are deceased if their beneficiaries are eligible for benefits (unit) divided by the total number of these police officers and firefighters (total units) on December 31 of the year before the year of the distribution in all units plus (2) the quotient of the unit's pension payments (payments) divided by the total pension payments (total payments) by all units.

Expressed mathematically:

$$D_y = (P_y - ((P_{y-1} - D_{y-1}) \times (1 + k))) \times 1/2 \\ (\text{unit}/(\text{total unit}) + \text{payment}/(\text{total payment})).$$

(f) If in any year the distribution made to a unit of local government is larger than the unit's pension payments to its retirees and their beneficiaries for that year, the excess may not be distributed to the unit but must be transferred to the 1977 police officers' and firefighters' pension and disability fund and the unit's contributions to that fund shall be reduced for that year by the amount of the transfer.

(g) If in any year after 2000, the STEP FOUR difference under subsection (e) is smaller than the revenue to the pension relief fund in that year, then the revenue plus interest plus the fund balance in that year shall be used in STEP FIVE of subsection (e) instead of the STEP FOUR difference.

(h) The state board shall have its actuary report annually on the appropriateness of the actuarial assumptions used in determining the distribution amount under subsection (e). At least every five (5) years, the state board shall have its actuary recompute the value of (k) under STEP TWO of subsection (e).

(i) Each calendar year the state board shall determine the amounts to be allocated to the "m portion" of the pension relief fund under the following STEPS, which shall be completed before July 1 of each year:

STEP ONE. The state board shall determine the following:

(1) "Excess earnings", which are the state board's projection of earnings for the calendar year from investments of the "k portion" of the fund that exceed the amount of earnings that would have been earned if the rate of earnings was the rate

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assumed by the actuary of the state board in his calculation of (k) under STEP THREE of subsection (e).

(2) "Prior deficit amount", which is:

(A) the amount of earnings that would have been earned under the rate assumed by the actuary of the state board in his calculation of (k) under STEP THREE of subsection (e); minus

(B) the amount of earnings received;

for a calendar year after 1981 in which (B) is less than (A).

STEP TWO. The state board shall distribute to the "m portion" the excess earnings less any prior deficit amounts.

(j) The "m portion" of the fund shall be any direct allocations plus:

(1) amounts allocated under subsection (i); and

(2) any earnings on the "m portion" less amounts previously distributed under subsection (l).

(k) The state board shall determine the units eligible for distribution from the "m portion" of the pension relief fund according to the following STEPS:

STEP ONE. Determine the amount of pension payments paid by the unit in the preceding calendar year, net of the amount of the distribution received by the unit under subsection (e) in that year, plus contributions made under IC 36-8-8 in that year.

STEP TWO. Divide the amount determined under STEP ONE by the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the preceding calendar year. **However, for a city or town for which an ordinance adopted under IC 6-1.1-18.5-10.6 was in effect for the preceding calendar year, divide the amount determined under STEP ONE by the amount of the maximum permissible ad valorem property tax levy for the unit that would have been determined under IC 6-1.1-18.5 for the preceding calendar year if the city or town did not have an ordinance under IC 6-1.1-18.5-10.6 in effect for the preceding calendar year.**

STEP THREE. If the quotient determined under STEP TWO is equal to or greater than one-tenth (0.1), the unit shall receive a distribution under subsection (l).

(l) Before July 1 of each year, the state board shall distribute from the "m portion" of the pension relief fund to the extent there are assets in the "m portion" to each eligible unit an amount, not less than zero (0), determined according to the following STEPS:

STEP ONE. For the first of consecutive years that a unit is

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1 eligible to receive a distribution under this subsection, determine
 2 the amount of pension payments paid by the unit in the calendar
 3 year two (2) years preceding the calendar year net of the amount
 4 of distributions received by the unit under subsection (e) in the
 5 calendar year two (2) years preceding the calendar year.

6 STEP TWO. For the first of consecutive years that a unit is
 7 eligible to receive a distribution under this subsection, divide the
 8 amount determined under STEP ONE by the amount of the
 9 maximum permissible ad valorem property tax levy for the unit as
 10 determined under IC 6-1.1-18.5 for the calendar year two (2)
 11 years preceding the calendar year. **However, for a city or town**
 12 **for which an ordinance adopted under IC 6-1.1-18.5-10.6 was**
 13 **in effect for the calendar year two (2) years preceding the**
 14 **calendar year, divide the amount determined under STEP**
 15 **ONE by the amount of the maximum permissible ad valorem**
 16 **property tax levy for the unit that would have been**
 17 **determined under IC 6-1.1-18.5 for the calendar year two (2)**
 18 **years preceding the calendar year if the city or town did not**
 19 **have an ordinance under IC 6-1.1-18.5-10.6 in effect for the**
 20 **calendar year two (2) years preceding the calendar year.**

21 STEP THREE. For the first and all subsequent consecutive years
 22 that a unit is eligible to receive a distribution under this
 23 subsection, multiply the amount of the maximum permissible ad
 24 valorem property tax levy for the unit as determined under
 25 IC 6-1.1-18.5 for the preceding calendar year by the quotient
 26 determined under STEP TWO. **However, for a city or town for**
 27 **which an ordinance adopted under IC 6-1.1-18.5-10.6 was in**
 28 **effect for the preceding calendar year, multiply the STEP**
 29 **TWO amount by the amount of the maximum permissible ad**
 30 **valorem property tax levy for the unit that would have been**
 31 **determined under IC 6-1.1-18.5 for the preceding calendar**
 32 **year if the city or town did not have an ordinance under**
 33 **IC 6-1.1-18.5-10.6 in effect for the preceding calendar year.**

34 STEP FOUR. Subtract the amount determined under STEP
 35 THREE from the amount of pension payments paid by the unit in
 36 the preceding calendar year, net of distributions received under
 37 subsection (e) for the preceding calendar year.

38 SECTION 2. IC 6-1.1-18.5-10.6 IS ADDED TO THE INDIANA
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 1999]: **Sec. 10.6. (a) The legislative body of**
 41 **a city or town may adopt an ordinance providing that the ad**
 42 **valorem property tax levy limits imposed by section 3 of this**

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chapter do not apply to ad valorem property taxes imposed by the city or town to raise revenue for pension payments and contributions that the city or town is required to make under IC 36-8. An ordinance adopted under this subsection before July 1 of a year applies to the property tax levy limits for the ensuing year and for following years. An ordinance adopted under this subsection after June 30 of a year applies to the property tax levy limits the year after the ensuing year and for following years.

(b) This subsection applies if the legislative body of a city or town adopts an ordinance under subsection (a). For the purposes of computing the ad valorem property tax levy limits imposed on the city or town by section 3 of this chapter, the ad valorem property tax levy of the city or town for a particular calendar year does not include that part of the levy imposed by the city or town to raise revenue for pension payments and contributions that the city or town is required to make under IC 36-8.

(c) The state board of tax commissioners shall reduce the maximum permissible ad valorem property tax levy of a city or town that adopts an ordinance under subsection (a). The city's or town's maximum permissible ad valorem property tax levy for the ensuing year shall be reduced by an amount equal to the amount appropriated by the city or town for pension payments and contributions required under IC 36-8 for the year in which the ordinance is adopted. However, if the city's or town's appropriation for the year in which the ordinance is adopted is not representative of the city's or town's normal appropriations for those purposes, the city or town may appeal to the local government tax control board for a redetermination of the amount of the reduction in the maximum permissible ad valorem property tax levy.

SECTION 3. IC 6-1.1-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each



county auditor which under IC 6-1.1-22-5, is to be filed on or before March 1 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(5) and IC 6-1.1-18.5-13(6) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for

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the stated assessment year under the authority of IC 21-2-6 or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

(i) IC 21-2-15 for a capital projects fund; plus

(ii) IC 6-1.1-19-10 for a racial balance fund; plus

(iii) IC 20-14-13 for a library capital projects fund; plus

(iv) IC 20-5-17.5-3 for an art association fund; plus

(v) IC 21-2-17 for a special education preschool fund; plus

(vi) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus

(vii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5(a)

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STEP ONE or any other law; minus

(I) for each township in the county, the lesser of:

(i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(5) filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; **minus**

(L) for each municipality that has adopted an ordinance under IC 6-1.1-18.5-10.6, an amount equal to the greater of zero (0) or the difference between:

(i) the amount of property taxes imposed in the municipality to raise revenue for pension payments and contributions the municipality is required to make under IC 36-8; minus

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(ii) the amount of property taxes imposed in the municipality, in the year the ordinance under IC 6-1.1-18.5-10.6 is adopted, to raise revenue for pension payments and contributions the municipality is required to make under IC 36-8; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.

SECTION 4. [EFFECTIVE JULY 1, 1999] IC 6-1.1-18.5-10.6, as added by this act, applies only to property tax levy limits computed for property taxes first due and payable after December 31, 1999.

